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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/411,792	10/01/1999	David Alan Eward	99-TK-238	8808

7590 12/07/2006

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EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 12/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No. 09/411,792	Applicant(s) EWARD ET AL.	
	Examiner Ted T. Vo	Art Unit 2191	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 21 September 2006 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.
EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☒ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☒ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

See Continuation Sheet.


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Continuation of 10. Other (including any explanation in support of the above items):

To avoid a confusion that may cause the remands from the BPAI, all appeal's items in a brief must be pursuant to 37 CFR 41.37.

Check box 3: Appellants do not mention the subsequent filing on 02/17/06.

This appeal is based on the final rejection filed on 11/14/04. There was a subsequent filing after Final, on 02/17/06. Appellants should identify this filing.

Check box 6:

Any argument should be directly from the appealing principle, whether the reference of record teaches the claims or not, and Appellants' position should point out patentable distinctions between claims and the prior art.

In this brief, Appellants' statements:

(brief p. 6) "Based on the Examiner's remarks in the Advisory Action mailed March 23, 2006, the Examiner appears to have withdrawn this position".

(brief p. 7) "Thus, the Examiner appears to admit that Circello does not disclose or suggest that an operand address is transmitted from processor core 9 to debug circuit 10",

these arguments have the appeal defected because they are false, that may cause demands from the BPAI. Examiner never admits or withdraws.

Appellants also fail to present the argument in the format According to 41.37(c)(1)(vii), A clear presentation of heading and subheading is requirement.

See an example in MPEP 1205 for the Appeal Brief content:

" For example, if Claims 1 to 5 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. Y and appellant is only going to argue the limitations of independent claim 1, and thereby group dependent claims 2 to 5 to stand or fall with independent claim 1, then one possible heading as required by this subsection could be

"Rejection under 35 U.S.C. 102(b) over U.S. Patent No. Y" (heading) and the optional subheading would be "Claims 1 to 5." Another example is where claims 1 to 3 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. Z and appellant wishes to argue separately the patentability of each claim, a possible heading as required by this subsection could be "Rejection under 35 U.S.C. 102 (b) over U.S. Patent No. Z," and the optional subheadings would be "Claim 1," "Claim 2 " and "Claim 3." >Under each subheading the appellant would present the argument for patentability of that claim<. The best practice is to use a subheading for each claim for which separate consideration by the Board is desired."

The heading is required, where the optional subheading is like a group of claims that stands or falls together.

It should be note that an argument is to argue the patentable of the claim, i.e., the argument is in the manner of the >sentence<:

">Under each subheading the appellant would present the argument for patentability of that claim<"

It should be noted that the brief filed on 09/21/06 has addressed many improper statements, as mentioned above.

Claims 22-41 and 42-64 (optional subheadings), appear argued to be the same to Claims 1-20, it suggests placing them in the same optional subheading of Claims 1-20.